

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM**

November 19, 2004

9:00 A.M.

PRESENT: *Appointed Members:*

Donald Mooney, Caleb Faux, Jim Tarbell, Deborah Holston and Terry Hankner

Community Development and Planning Staff:

Margaret Wuerstle, Steve Briggs, Caroline Kellam, Felix Bere, Jennifer Walke and
Virginia Vornhagen

Law Department:

Julia Carney

CALL TO ORDER

Mr. Mooney called the meeting to order.

MINUTES

The minutes of the November 5, 2004 meeting were presented.

Motion: Mr. Faux moved approval of the minutes as presented.

Second: Ms. Hankner

Vote: All ayes (5-0), motion carries.

CONSENT ITEMS

ITEM #1 – An ordinance authorizing the City Manager to enter into and execute two agreements of lease with Sagamore Parking Inc. for City parking lot sites located at Seventh and Culvert Streets and Eighth, Eggleston and Culvert Streets in the Central Business District (CBD).

ITEM #2 -- A report and recommendation on the sale of City-owned property at the southeast corner of Eastern Avenue and Vance Street in the East End to Gerald S. Burns and Betty R. Burns.

ITEM #3 – A report and recommendation on an Agreement of Lease for a parking lot site located between Eggleston Avenue, Sentinel Street, and Culvert Street in the Central Business District (CBD) to the Parking Company of America.

ITEM #5 – An ordinance authorizing the City Manager to enter into a lease with Duke Realty Ohio, for 1.96 acres of vacant land in Blue Ash, Ohio, which property is not needed for any municipal purpose during the term of the lease.

Motion: Ms. Hankner moved approval of Consent Items (except Item #4)

Second: Mr. Faux

Vote: All ayes (5-0), motion carries.

ITEM #4 – A report and recommendation on an application to demolish the property at 716 Greenwood Avenue within Interim Development Control (IDC) District #58 in the community of North Avondale

The Commission set the public hearing date for Item #4 for December 3, 2004.

DISCUSSION ITEMS

ITEM #6 – A report and recommendation to vacate a part of McVayle Lane west of Hoge Street in the Columbia Tusculum community.

Mr. Larry Harris, a senior staff planner, presented this item. Mr. Harris noted a variance in the street name spelling. He explained that CAGIS indicated the street name as McVay rather than McVayle. However, the Law Department accepted the spelling of McVayle and prepared the ordinance accordingly. Mr. Harris discussed this discrepancy with Dotty Carman of the Law Department. Ms. Carman indicated that the name as McVayle would not be an issue.

Ms. Hankner inquired as to approval being based on the legal description rather than on the spelling of the name of the street. Mr. Harris said that Ms. Carman suggested it might be on record as spelled one way, but publicly known spelled the alternate way. He reiterated that Ms. Carman found McVayle acceptable.

Motion: Ms. Holston moved approval
Second: Mr. Faux
Vote: All ayes (5-0), motion carries

ITEM #7 – A report and recommendation on a zone change request for property at 27 Back Street from Community Commercial – Pedestrian (CC-P) to Manufacturing General (MG) Zone District in Over-the-Rhine.

Ms. Jennifer Walke, Staff Planner, presented this item. Mr. Donaldson, the developer, has requested the zoning be changed back to MG as listed prior to the adoption of the new Zoning Code in February 2004. The Zoning Code changed the designation on this location to CC-P. However, an important item to note is that this building abuts the Husman manufacturing building which has a zoning designation of MG.

Ms. Walke said that two letters have been received from the community in favor of the change, as well as a phone call in support. Ms. Holston asked about the notification of the neighboring property owners. Ms. Walke said that the property owners had been notified. The Planning Staff recommends the zone change.

Motion: Ms. Hankner moved approval
Second: Ms. Holston
Vote: All ayes (5-0), motion carries

ITEM #8 – A report and recommendation on a Final Development Plan for a development within Planned Development (PD) District #38 the Villages of Daybreak bordered by Langdon Farm Road to the south, Seymour Avenue to the north, Jordan Crossing and the Community Action Center on the west and Rhode Island Avenue on the east.

Mr. Steve Briggs, Senior City Planner, presented this item on the Villages of Daybreak, final development Phases I, II and III. Mr. Briggs pointed out on his presentation map a phase that would be single-family attached condominiums facing Langdon Farm Rd. Ms. Holston asked Mr. Briggs to clarify the specific

number of units. Mr. Briggs replied that this area is 36 acres and would contain 200 units of which 100 would be attached units. There are a total of 60 acres in this project.

Ms. Hankner questioned where CitiRama would be located in relation to this project. Mr. Briggs pointed out that CitiRama would be located along Rhode Island Avenue. Ms. Hankner responded that this project would be a fine development for the City. Mr. Faux also noted that the Villages of Daybreak was an excellent addition to the City.

Mr. Briggs pointed out that the Planning Staff recommends approval.

Motion: Mr. Faux moved approval
Second: Ms. Holston
Vote: All ayes (5-0), motion carries

ITEM #9 – A report and recommendation on a Final Development Plan to construct a new building for Amantea Nonwovens, LLC at 6715 Steger Drive, within Planned Development (PD) District No. 1 TechSolve (formerly IAMS) Business Park.

Mr. Steve Briggs, Senior City Planner, presented this item, and pointed out that the subject site is the last available site in the TechSolve (IAMS) Business Park. Mr. Briggs presented an artist's rendering of the proposed building and explained that the requested building would serve as a paper products manufacturer (i.e., diaper products). The TechSolve Park does have guidelines, such as set backs and public art. Variances from the guidelines have been granted.

Motion: Ms. Hankner moved approval
Second: Mr. Mooney
Vote: All ayes (5-0), motion carries

ITEM #10 -- A report and recommendation for a zone change request for property at 5848 Winton Ridge Lane in Winton Hills (Item #8 from the November 5, 2004 meeting).

Mr. Felix Bere, Staff Planner, presented this item for a zone change request that had been held over from the November 5, 2004 Planning Commission meeting. Mr. Bere indicated the property on his presentation map. The zoning on this property had been changed during the re-write of the Zoning Code. The property was changed to SF-6 from an RM-2 zoning designation.

A staff conference was held. A number of neighboring property owners were against the change as requested by Mr. Leo J. Brielmaier of 5648 Winton Ridge Lane. Mr. Bere also stated that he had received a number of e-mails requesting that the property stay zoned SF-20. Mr. Brielmaier recently put the property up for sale and then found out about the zone change. Planning staff recommends that the zoning stay SF-20 rather than change to RM-2.

Mr. Mooney requested that Ms. Michele Flemming, lawyer for the owner, Mr. Brielmaier, come forward to present the owner's case. Ms. Flemming thanked the Planning Commission for the postponement of the hearing because Mr. Brielmaier hired her just prior to the previously scheduled hearing on this case.

Ms. Flemming had a number of photos and a topographical map to help the Planning Commission understand the property and its relationship to other properties. She explained that the Jacob Learning Center and the Procter & Gamble Center (zone designation M-1) can be seen from his property. Some of the nearby property is owned by the State and Board of Education. Also close by is the Salvation Army Senior Center. Ms. Flemming had a conversation with the Salvation Army Director, Major Vanover. In the not too distant future they plan to build

another senior center on their property. Ms. Flemming explained that Major Vanover was not aware of the zone change, and could not remember any notification of a change in zoning.

As Mr. Brielmaier's explained, this property had been in the family for more than 50 years. They now use the property as a construction business, which his father began in the 1950s. Besides the home on the property they have a large dry storage shed, and an office. He also keeps a few head of cattle on the property. A 230-foot easement for high-tension wires on 180-foot tall towers runs directly through the center of the property.

Mr. Faux asked for clarification on the back piece of the property where it is split by the easement for the high-tension power lines and therefore that part could not be developed. Mr. Brielmaier responded that he felt that the lack of sewers was what prevented the property from being developed.

Ms. Fleming then described the topography of the property as rolling. Sewers are not included. The closest sewer is at the Procter and Gamble property, which they plan to upgrade over the next few years.

Ms. Pat Ernst of 5124 Winton Ridge then spoke against the zoning change. Her family had owned property in the area since 1886. She told the Planning Commission that she and a number of her neighbors liked their property with the green space and open areas. Ms. Ernst also said that the first she had heard of the zoning change was by a notification through the Winton Hills City Club's newsletter.

Ms. Ernst explained that the area already had Metropolitan Housing, Winton Terrace and the Garden Hills Co-op, with 1,247 to 1,307 units and a total population of about 3,000 to 4,000 people. To her that number indicates too much density for the area. She also noted that the City had promised that no more multi-family housing would be built in this area. Ms. Ernst wants to keep the zoning as it is now to limit the chance of overpopulation.

Ms. Eileen Frechette of 5081 Wooden Shoe Avenue spoke against the zone change. Specifically she wanted to have the SF-20 zoning designation to limit the area population. This area was originally a market garden that supplied Findley Market. She questioned the profitability of development of new large homes in an area with landfills on either side. Ms. Frechette questioned the notification on the new zoning. Like Ms. Ernst, she had found out about the change through the "back door".

Mr. Faux said that the zone change was significant in that it would allow multi-family housing requiring only 2,000 sq. ft. of lot area per unit from single housing of 20,000 sq. ft. lots. He asked Ms. Frechette if there could be a compromise on what the property owner wanted and what the neighboring property owners wanted. Ms. Frechette responded that the compromise idea came up at the staff conference Mr. Bere had held. Mr. Brielmaier's response was negative. He would like to sell the property, but does not want to develop it himself.

Mr. Faux then asked if Ms. Frechette felt the neighboring property owners would agree to a zoning of SF-6 that would allow town homes or a zoning of SF-10 that would allow quarter acre lots. Ms. Frechette responded that she could not speak for others but she felt there was room for conversation if there were alternatives as Mr. Faux had mentioned.

Ms. Hankner agreed with Mr. Faux to allow a postponement for the interested parties to have time to meet and perhaps come to a compromise. Mr. Mooney also suggested designating a PD that would allow for the clustering of smaller homes.

Mr. Ed Rolfert of 5614 Winton Ridge Lane introduced himself as an interested party. He has property quite close to Mr. Brielmaier's property. He was concerned that his property's zoning might have been changed without him being notified. In the past his property had been zoned RM2.0. It was suggested by the Planning

Commission that Mr. Rolfert be included in the aforementioned meeting with the neighborhood property owners. But that he would have to file a separate request for the re-zoning of his property.

Mr. Bere asked the Planning Commission to postpone a discussion until the December 19, 2004 meeting in order that the community may have enough time to advertise the meeting and come to a compromise. The Planning Commission agreed.

Motion: Ms. Hankner moved to postpone this item until the December 19, 2004 meeting.
Second: Mr. Faux
Vote: All ayes (5-0), motion carries

PUBLIC HEARING

ITEM #11 -- A report and recommendation on an application for a liquor drive-through store on an existing vacant lot at 6549 Montgomery Road within Interim Development Control (IDC) District #75 in the community of Kennedy Heights. (Item #7 held over from the November 5, 2004 meeting.)

Mr. Mooney asked all parties involved with this item to stand and be sworn in.

Ms. Jennifer Walke, Staff Planner, stated that the proposed development was a liquor drive-through store, which the developer, Skyy Properties, calls the Beverage Cave. The proposed structure is a one-story corrugated steel building with a garage doors as front and rear entrances. The same proposal was denied by the Planning Commission last year on December 5, 2003 when the area was under IDC #57 to protect the area from adverse development while a zoning study was performed.

On September 10, 2004 the Planning Commission upheld the recommendations of the zoning study and approved a zone change for the area from CC-A to CC-P to promote pedestrian friendly development. IDC #57 expired before the zone change was approved by Council and a new IDC (#75) was established in its place on September 29, 2004. Minutes after IDC #75 was approved by Council, Skyy Properties resubmitted their plans for the Beverage Cave. The date and time of both events are documented. The Ordinance passed by City Council that established IDC #75 was signed at 2:23 PM. The building application for the Beverage Cave was logged into the computer system by Buildings and Inspections at 2:28 PM.

Ms. Walke stated that Planning Staff recommends that the building permit be denied because it does not comply with either of the two guidelines set forth in IDC #75. IDC #75 Application Review Guidelines state that "Permits are limited to uses identified as desirable in the Kennedy Heights Comprehensive Plan". Page 9 of the Plan specifically identifies carry out/liquor stores as "undesirable". Pages 25-26 of the Plan calls for a zone change to promote a pedestrian-friendly, mixed use commercial and office area on this block, which includes the property in question. The Beverage Cave is not a pedestrian-friendly development.

IDC #75 Application Review Guidelines also state the "Land Uses in the proposed IDC will be limited to the uses of the prescribed zone provided the proposed use is compatible with the adjacent residential area". Ms. Walke argued that the Beverage Cave is not architecturally compatible with the surrounding area, nor is its use compatible because the proposed development will impact the right-of-way, traffic operations at the location and increase crime, loitering, and traffic within the Montgomery Road Commercial Corridor. This is not what the community had envisioned for the area.

Mr. Nate Sprong of Manley Burke, LAP (225 W. Court St.), representing Skyy Properties stated that his client, accompanied by Scott Adams (Manley Burke) arrived at the Permit Center on September 29, 2004 at 1:40 PM, to resubmit the permit application, but were delayed until Council approved IDC #75. Their permit

application was not entered into the intake system until 2:28 PM. Mr. Sprong believes that communication took place between Peggy Martin at the Permit Center and City Council. He is contesting the validity of IDC #75 on behalf of Section 1430-05 of the Zoning Code.

Ms. Julia Carney of the City Law Department noted that Mr. Sprong was not speaking to the issue at hand. Mr. Mooney remarked that he understood that Mr. Sprong wanted to get his remarks into the record, but agreed with Ms. Carney in that Mr. Sprong was not addressing the zoning question.

Mr. Richard Cooke of 6257 Rogers Park Place and manager of the Kennedy Heights Arts Center told the Planning Commissions that hundred's of residents and businesses have written letters against the liquor drive-through use. The petitioner had applied for a liquor permit, which has been denied, and a hearing has not yet been scheduled in Columbus on this issue.

Mr. Cooke went on to explain that within walking distance of what the petitioners are proposing, the community has a church, the school board office, a home for developmentally disabled and the Arts Center which is also being used as a community center. Many people over the past few years have become actively involved in making this area more positive in the community life.

Mr. Van Foster of 5807 Kinoll Avenue who is on the Board of Trustees for the Community Council spoke next. Mr. Foster said that beginning in 2001 the community had been striving to revitalize this area. They have been working to improve the Montgomery Road corridor for retail and office space. This Planned Development has had support from the City of Cincinnati and the Planning Commission. A market study is being developed and should be completed in about a month.

If the Beverage Cave or something similar were allowed to build and operate it would destroy any advances in improvement that have been made. Mr. Foster indicated that the community believes a business of this sort would increase auto traffic and loitering and possibly drug trafficking. The petitioners presented a similar zone change request in 2003, which was denied by Council.

Mr. Henry Wilson, Jr. of 6601 Montgomery Road then spoke against the zone change request. He is associated with the Missionary Baptist Church. He and his congregation are against the zone change, which would enable the Beverage Cave to build in the area. Reverend Wilson believes the accumulation of trash because of those loitering in the area and increased traffic would both develop to the point of endangering the children as well as the developmentally challenged housed nearby.

Mr. Gary Pierce of 6654-3 Montgomery Rd. then spoke against the zone change request. He said that he found it interesting that a business of this type would try to enter the area since there were so many drive-thru or mini-marts within a mile or two of the location. Not even a large grocery chain could make a success within this area. Due to these facts of past failures of a business of this type it would be best to encourage small walk-in types of businesses

Julia Carney pointed out the requirements in the Zoning Code that the Commission needed to address in making a decision on this item.

Motion:	Ms. Holston moved denial based on the findings of the Staff Report
Second:	Mr. Faux
Vote:	All ayes (5-0), motion carries.

OTHER BUSINESS

ADJOURN

Motion: Mr. Faux, moved for adjournment
Second: Ms. Hankner
Vote: All ayes (5-0), motion carries.

Margaret A. Wuerstle, AICP
Chief Planner
Department of Community
Development & Planning

Donald Mooney, Chair
City Planning Commission

Date: _____

Date: _____